

AGENDA ITEM

MOC II.D JULY 17 2014

DATE: July 17, 2014

TO: Members, Member Oversight Committee

FROM: Pam Wilson, Senior Director Office of Education

SUBJECT: Request for Public Comment- Rules of the State Bar, Title 3, Division 2. Rules 3.50 and 3.52 (B)

EXECUTIVE SUMMARY

This agenda item requests a public comment period for a proposed amendment to State Bar Rules, Title 3, Division 2, Rules 3.50 and 3.52 (B) to change the title of non-lawyer State Bar Section members from “associate” members to “affiliate” members and to clarify that affiliate section members are not members of the State Bar. This change is recommended because in cases of Unauthorized Practice of Law (UPL), a non-lawyer’s use of the title of “associate” Section member may allow room for misrepresentation and mislead the public.

The proposed amendment to the rules is shown in Attachment A. Staff requests the Board Committee’s approval to circulate the proposed amendments for a 30-day public comment period.

Questions on this item should be directed to Pam Wilson at (415) 538-2395 or Pam.Wilson@calbar.ca.gov .

BACKGROUND

State Bar Rules 3.50 and 3.52(B) provide that, in addition to members of the State Bar, Sections may have “associate” members. UPL cases have involved non-lawyers stating that they are “associate” members of The State Bar of California. Since law firms actively use the title of “associate,” the similar sounding “associate” member is misleading to the public. We believe changing the name from “associate” member to “affiliate” member will clear up this potential confusion.

ISSUE

The request is to circulate for public comment a proposed amendment to State Bar Rules 3.50 and 3.52 (B) in the form attached hereto as Attachment A, which changes the name of non-lawyer section members from “associate” members to “affiliate” members, and clarifies that this category of Section members are not members of the State Bar.

DISCUSSION

Non-lawyer members of the Sections are professionals representing a variety of industries. Some of the professions that are represented by non-lawyer section members include:

- CPA’s
- Paralegals
- Professors
- Real Estate Agents
- Members of the Legal Profession not authorized to practice law in CA

Currently, these individuals have been identified as “associate” members of the Sections. The proposed revision of the rules to rename “associate” members to “affiliate” members would serve to continue to identify them as active members of the Section, while clarifying their status as non-lawyers.

The State Bar Sections will recognize “affiliate” members as enrolled participants of the State Bar Sections and these members will benefit by receiving the same information and access to materials as lawyer-members. “Affiliate” members can also serve on Section Executive Committees, in a leadership capacity or on a committee within that Section. No more than one-fourth of all section members may be non-lawyers.

CONCLUSION

Staff requests authority to post proposed rule changes for a 30-day public comment period commencing on July 22, 2014 and ending on August 21, 2014. Should the Board of Trustees ultimately approve the amendment to the rules, it is anticipated the rule change would become effective November 10, 2014.

FISCAL / PERSONNEL IMPACT:

None

RULE AMENDMENTS:

Proposed amendment to the State Bar Rules 3.50 and 3.52 (B) in the form attached hereto as Attachment A,

BOARD BOOK IMPACT:

Tab 20, Article 1, Section 1 and Section 3(B)

RECOMMENDATION

Staff recommends that the Member Oversight Committee approve the request that the proposed amendments to the Rules, as attached as Attachment A, be circulated for public comment.

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Member Oversight Committee recommends that the Board authorizes staff to make available for public comment for a period of 30 days, the proposed revisions to the Rules of the State Bar, Title 3, Div. 2, Rules 3.50 and 3.52 (B) in the form attached; and it is

FURTHER RESOLVED, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.